

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:

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CC:FIP:02

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Date:

April 13, 2010

Legend:

Fund =

Corporation =

State A =

Index 1 =

Index 2 =

Interest Rate 1 =

Interest Rate 2 =

Interest Rate 3 =

a =

b =

c =

d =

e =

f =

g =

h =

i =

j =

k =

Dear :

This responds to the request dated February 25, 2010, and supplemental correspondence dated March 26, 2010, submitted by your authorized representative on behalf of Fund. Fund requests a ruling that income earned from investments in the commodity-linked notes described in this letter will constitute qualifying income to Fund under section 851(b)(2)(A) of the Internal Revenue Code of 1986, as amended (the "Code").

Facts:

Fund is a newly-formed separate series of Corporation, a State A corporation. Corporation is registered as an open-end management investment company under the Investment Company Act of 1940, 15 U.S.C. §80a-1 et. seq., as amended (the "1940 Act"). Fund plans to elect to be taxed as a "regulated investment company" ("RIC") under section 851 of the Code.

Fund seeks a long-term total return in excess of inflation. Fund intends to seek long-term capital appreciation and income through investing primarily in alternative asset classes. Fund will employ a portfolio design, providing diverse exposures to certain underlying investment strategies that are positively correlated with medium- and long-term inflation and have modestly positive or negative correlations with traditional stock and bond portfolios. Fund expects to pursue this investment objective and strategy, in part, through the investments in commodity-linked notes having substantially the same terms and conditions of the following three notes (the "Notes").

Note 1:

Note 1 will be issued to Fund at an expected par value of \$a and will have a payout based on a formula determined by reference to Index 1. Note 1 will have a term of one year and one month. Fund, as holder of Note 1, has the right to put Note 1 to the issuer at the calculated redemption price based on the closing Index 1 value as of the next business day after notification to the issuer. In addition, if on any day Index 1 falls to a level that is equal to or below b% of the beginning Index 1 value, Note 1 will “knock-out” and automatically redeem based on the closing Index 1 value of the next business day on which trading is generally conducted with respect to the components of Index 1.

Note 1 will pay a monthly coupon in arrears. The coupon for each coupon period will be Interest Rate 1. In the case of a mandatory prepayment event or an early redemption at the option of the holder or issuer (each, an early redemption event), Fund will receive the accrued coupon on the applicable early redemption event maturity date.

The issuer’s repayment obligation upon early redemption, knock-out, or maturity equals the face amount of Note 1, plus or minus an adjustment. The adjustment is calculated by multiplying the face amount of Note 1 by a leverage factor of c (leveraged face amount) times the adjusted Index 1 return. The adjusted Index 1 return means the percentage of the increase or decrease of the beginning Index 1 level compared to the ending Index 1 level for the applicable period decreased by an annual fee amount (d%) based on the number of days Note 1 is outstanding. The adjusted Index 1 return will also include an adjustment for the reversal of the interest rate factor included in the total return computation.

Note 2

Note 2 will be issued to Fund at an expected par value of \$a and will have a payout based on a formula determined by reference to Index 2. Note 2 will have a term of one year and one month. Fund, as holder of Note 2, has the right to put Note 2 to the issuer at the calculated redemption price based on the closing Index 2 value as of the next business day after notification to the issuer. In addition, if on any day Index 2 falls to a level that is equal to or below b% of the beginning Index 2 value, Note 2 will “knock-out” and automatically redeem based on the closing Index 2 value of the next business day on which trading is generally conducted with respect to the components of Index 2.

Note 2 will pay an interest amount upon repayment, which amount will accrue at Interest Rate 2 until paid as part of the redemption price.

The issuer’s repayment obligation upon early redemption, knock-out, or maturity equals the face amount of Note 2, plus or minus an adjustment, plus an interest amount. The adjustment is calculated by multiplying the face amount of Note 2 by a leverage factor of c (leveraged face amount) times the adjusted Index 2 return. The adjusted Index 2 return means percentage of the increase or decrease of the beginning Index 2 level compared to the ending Index 2 level for the applicable period decreased

by an annual fee amount (e%) based on the number of days Note 2 is outstanding. The adjusted Index 2 return will also include an adjustment for the reversal of the interest rate factor included in the total return computation.

Note 3

Note 3 will be issued to Fund at an expected par value of \$a and will have a payout based on a formula calculated using an index calculated by the issuer in a manner that is consistent with the calculation of Index 1, modified as to roll periods ("Modified Index 1"). Specifically, Modified Index 1 uses roll periods that are based on business days f through g, as compared to business days h through i of each month used by Index 1. Note 3 will have a term of one year and one month. Fund, as holder of Note 3, has the right to put Note 3 to the issuer at the calculated redemption price based on the closing Index 1 value as of the next business day after notification to the issuer. In addition, if on any day Index 1 falls to a level that is equal to or below j% of the beginning Index 1 value, Note 3 will "knock-out" and automatically redeem based on the closing Index 1 value of the next business day on which trading is generally conducted with respect to the components of Index 1.

Note 3 will pay a monthly coupon rate based on Interest Rate 3. In the case of an early redemption event, Fund will receive the accrued coupon on the early redemption event maturity date.

The issuer's repayment obligation upon early redemption, knock-out, or maturity equals the face amount of Note 3, plus or minus an adjustment. The adjustment is calculated by multiplying the face amount of Note 3 by a leverage factor of c (leveraged face amount) times the adjusted Index 1 return. The adjusted Index 1 return means the percentage of the increase or decrease of the beginning Index 1 level compared to the ending Index 1 level for the applicable period decreased by an annual fee amount (k%) based on the number of days Note 3 is outstanding. The adjusted Index 1 return will also include an adjustment for the reversal of the interest rate factor included in the total return computation.

Fund makes the following representations with respect to these three Notes:

- (1) Each issuer of the Notes will receive payment in full of the purchase price of the Notes substantially contemporaneously with the delivery of the Notes;
- (2) The Fund while holding the Notes will not be required to make any payment to the issuer of the Notes in addition to the purchase price paid for the Notes, whether as margin, settlement payment, or otherwise, during the life of the Notes or at maturity;

- (3) Each issuer of the Notes is not subject by the terms of the instrument to mark-to-market margining requirements of the Commodities Exchange Act, 7 U.S.C.A. 2, as amended (CEA); and
- (4) The Notes are not marketed as a contract of sale of a commodity for future delivery (or option on such a contract) subject to the CEA.

Law and Analysis:

Section 851(b)(2) of the Code provides that a corporation shall not be considered a RIC for any taxable year unless it meets an income test (the “qualifying income requirement”). Under this test, at least 90 percent of its gross income must be derived from certain enumerated sources. Section 851(b)(2) defines qualifying income, in relevant part, as –

dividends, interest, payments with respect to securities loans (as defined in section 512(a)(5)), and gains from the sale or other disposition of stock or securities (as defined in section 2(a)(36) of the 1940 Act) or foreign currencies, or other income (including but not limited to gains from options, futures or forward contracts) derived with respect to [the RIC’s] business of investing in such stock, securities, or currencies . . .

Section 2(a)(36) of the 1940 Act defines the term “security” as –

any note, stock, treasury stock, security future, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, any put, call, straddle, option, or privilege on any security (including a certificate of deposit) or on any group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency, or, in general, any interest or instrument commonly known as a “security”, or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.

Section 2(f)(1) of the CEA provides that the CEA is not applicable to a hybrid instrument that is predominantly a security. Section 2(f)(2) of the CEA provides that a hybrid instrument shall be considered predominantly a security if –

- (A) the issuer of the hybrid instrument receives payment in full of the purchase price of the hybrid instrument, substantially contemporaneously with the delivery of the hybrid instrument;
- (B) the purchaser or holder of the hybrid instrument is not required to make any payment to the issuer in addition to the purchase price paid under subparagraph (A), whether as margin, settlement payment, or otherwise, during the life of the hybrid instrument or at maturity;
- (C) the issuer of the hybrid instrument is not subject by the terms of the instrument to mark-to-market margining requirements; and
- (D) the hybrid instrument is not marketed as a contract of sale of a commodity for future delivery (or option on such a contract) subject to the CEA.

Section 2(f)(3) of the CEA provides, in part, that for purposes of section 2(f)(2)(C) of the CEA, mark-to-market margining requirements do not include the obligation of an issuer of a secured debt instrument to increase the amount of collateral held in pledge for the benefit of the purchaser of the secured debt instrument to secure the repayment obligations of the issuer under the secured debt instrument.

Conclusion:

Based on the facts as represented, we rule that income and gain arising from the Notes constitutes qualifying income to Fund under section 851(b)(2) of the Code.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. In particular, no opinion is expressed regarding whether Fund qualifies as a RIC under Subchapter M of the Code.

This ruling is directed only to the taxpayer who requested it, and is limited to the facts as represented by the taxpayer. Section 6110(k)(3) provides that this letter may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

David B. Silber
David B. Silber
Chief, Branch 2
Office of Associate Chief Counsel
(Financial Institutions and Products)